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COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLES 16 AND 17 OF THE COVENANT

Concluding observations of the Committee on
Economic, Social and Cultural Rights

Argentina

1. The Committee considered the second periodic report of the Republic of Argentina (E/1990/6/Add.16) at its 33rd, 34th, 35th and 36th meetings held on 17, 18 and 19 November and, at its 52nd meeting, held on 1 December 1999, adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the second periodic report submitted by Argentina and the written replies to the Committee's list of issues (E/C.12/Q/ARG/1), as well as the constructive dialogue conducted between the Committee members and the State party's delegation. Notwithstanding, the Committee regrets the delay with which the State party submitted its written replies to the list of issues, which prevented its timely translation and therefore its full use by all members.

3. The Committee has considered with interest Argentina's written report, which contains important legal information, but notes nonetheless the absence of specific information needed to evaluate the implementation of economic, social and cultural rights in Argentina.

B. Positive aspects

4. The Committee notes with satisfaction article 75 of the 1994 Constitution, which provides for the restitution to the indigenous peoples of some of their traditional lands. It further welcomes the restitution of large tracts of traditional lands.

5. It also notes with satisfaction the adoption of the Emergency Plan (Plan de Emergencia) that aims to help those living below the poverty level.

6. The Committee welcomes the information that the State party has signed immigration agreements with Bolivia and Peru in order to regularize the situation of citizens of those countries in Argentina.

7. The Committee takes note of the partial implementation of the Government's plan to facilitate home ownership by tenants illegally occupying government property by giving them the opportunity to purchase the land they are occupying at preferential interest rates.

8. The Committee notes with satisfaction the success of the Government's health programme in finding a cure for Chagas disease, which has been recognized by the World Health Organization.

9. The Committee welcomes the information that human rights education is now available throughout all levels of education.

C. Factors and difficulties impeding the implementation of the Covenant

10. The Committee acknowledges the financial difficulties encountered by the Argentine economy in the last four years. While the Government has succeeded in stabilizing the value of the currency, the implementation of the structural adjustment programme has hampered the enjoyment of economic, social and cultural rights, in particular by the disadvantaged groups in society.

D. Principal subjects of concern

11. The Committee is concerned about the six Mapuche indigenous communities who, despite having obtained legal recognition of their rights over some of their traditional lands in the Pulmari area, have not yet received the property deeds to these. It is also concerned about the status of the Indigenous and Tribal Peoples Convention, 1989 (Convention No. 169) of the International Labour Organization, the ratification of which was authorized by the National Congress in 1989 but which has yet to take place.

12. The Committee is concerned about the very high unemployment rate in Argentina (almost 15 per cent) and in particular about the large number of the new poor (nuevos pobres), who had traditionally belonged to the middle classes.

13. It is particularly concerned about the large number of workers who fall within the informal economic sectors. Approximately 37 per cent of urban workers in the country are not registered which, according to the Government's own estimates, implies that some 3 million workers have no social security coverage.

14. The Committee is also concerned that unemployment benefits reach only some 6 per cent of the unemployed population and that some categories of workers are excluded, such as rural domestic and construction workers and public employees.

15. The Committee notes with concern the way in which "temporary" workers, as they are known in Argentina, are treated, since the measures adopted to promote job creation have not secured for them the economic, social and cultural rights of workers, particularly in times of growing unemployment.

16. The Committee notes with concern the adoption by the State party of legislative reforms that tend to increase the precariousness of work relationships. This is evidenced by permitting the adoption of collective agreements that reduce the legal work standards (Law 24.467, chap. III), an increase in the trial period stipulated in work contracts and the generalization of contracts of limited duration.

17. The Committee notes with concern that various de facto discriminatory practices against women exist, particularly in the areas of employment and equal pay.

18. The Committee also notes with concern the extent of the Government's privatization of the pension programme, in particular article 16 of Law 24,463 which allows the Government to reduce, and eventually even not to pay pensions by invoking economic constraints.

19. The Committee has had difficulty in evaluating the Government's programmes for training workers and the impact of these programmes owing to the absence of comprehensive statistics.

20. The Committee is concerned about the housing deficit in Argentina and that the initiatives taken by the Government have not been adequate in this regard. The Committee is also concerned at the lack of statistics in Argentina relating to housing.

21. The Committee reiterates its concern about the high incidence of irregular occupations of buildings, particularly in Buenos Aires, and the circumstances in which evictions are carried out.

22. The Committee is concerned at the privatization of labour inspections and control systems and notes that public campaigns are not an adequate substitute for efficient inspections carried out by public authorities. The Committee is also concerned that conditions in workplaces, particularly in the building sector, frequently fail to meet established standards.

23. The Committee is concerned that the right to health is not being fully implemented in the State party. In particular, it is concerned about the conditions in public hospitals in general and with psychiatric hospitals in particular.

24. The Committee is concerned about the health of pregnant women, in particular the relatively high maternal mortality rate, and the high adolescent pregnancy figures.

25. The Committee also notes with concern the increasing incidence of violence against women, in particular domestic violence.

26. The Committee notes that the State party has had in place for 10 years, a programme, which has been trying to address the question of street children, particularly in Buenos Aires. However, it remains concerned that the root problems have not been successfully addressed, given that the number of children on the streets has continued to increase.

E. Suggestions and recommendations

27. The Committee suggests that the State party introduce institutional arrangements, within the government administration, to ensure that its obligations under the Covenant are taken into account at an early stage in the formulation of national policies on issues such as housing, health and education.

28. The Committee also recommends that the State party, when negotiating with international financial institutions, take into account its Covenant obligations to respect, protect and fulfil all of the rights enshrined in the Covenant.

29. The Committee recommends that the State party ratify ILO Convention No. 169, in accordance with the authorization given by the National Congress in 1989, and to find a solution that will satisfy the rights of the Mapuche communities in the Pulmari region.

30. The Government is also urged to adopt more effective measures to reduce unemployment. Furthermore, it should ensure that the economic, social and cultural rights of temporary workers are effectively respected.

31. The Committee recommends that the State party examine its legislation with regard to provisions of collective agreements that have detrimental effects such as those lengthening the trial period stipulated in work contracts, or limiting the duration of contracts, and to verify their conformity with articles 6 and 7 of the Covenant.

32. The Committee calls upon the Government of Argentina to take steps to guarantee equality in law and in practice between men and women in the enjoyment of economic, social and cultural rights.

33. The Committee urges the State party to ensure that its social security system guarantees workers an adequate minimum pension, which should not be unilaterally reduced or deferred, especially in times of economic constraints. Consequently, it recommends that the State party repeal article 16 of Law 24,463 of 31 March 1995 in order to guarantee the full payment of all pensions.

34. The Committee recommends that the Government's programmes for training workers be assessed and that statistics be provided to the Committee so that it can evaluate the Government's policies in this respect.

35. The Committee recommends that the State party continue and enhance its initiatives to overcome the housing shortage in Argentina, and that it provide the Committee in its next periodic report with detailed statistics on the housing situation in the country.

36. The Committee also recommends that the State party continue its policy of legalizing deeds to those that have possession of houses. The Committee also recommends that the existing procedures for the eviction of illegal occupants be reviewed as a matter of priority. The Committee once again draws the attention of the Government to the full text of its General Comments No. 4 (1991) and No. 7 (1997) on the right to adequate housing and urges the Government to ensure that policy, legislation and practice take due account of both general comments.

37. The Committee urges the Government to improve the effectiveness of its measures in the area of safety and hygiene in the workplace, particularly in the construction sector, to increase its efforts to improve all aspects of environmental and industrial hygiene and safety, as well as to ensure that the control and inspection of industrial hygiene and safety are carried out by public authorities.

38. The Committee urges the State party to review its policies on health, and in particular that it pay attention to the issues of mental health, maternal mortality, adolescent pregnancies and HIV/AIDS, and that it provide the Committee with comprehensive statistics in its next periodic report.

39. The Committee urges the State party to intensify its efforts to combat the problem of violence against women, in particular domestic violence.

40. The Committee recommends that the State party adopt measures to combat the problem of street children and to attack the root causes of this situation.

41. The Committee recommends that the concerns expressed in the present concluding observations, as well as the issues raised during the discussion of the second periodic report which remain unanswered, inter alia regarding the guarantee of pensions and social security, should be addressed in the State party's third periodic report.

42. The Committee requests the State party to disseminate the present concluding observations widely at all levels of society and in its third periodic report, to be submitted on 30 June 2001, to inform the Committee on all steps taken to implement them

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